THE BOMBAY NURSES, MIDWIVES AND HEALTH VISITORS REGISTRATION ACT, 1935.

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BOMBAY ACT No. VII OF 1935.[1]

[THE BOMBAY NURSES, MIDWIVES AND HEALTH VISITORS REGISTRATION ACT, 1935.]

[*30th April 1935.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to provide for the registration and better training of nurses, midwives and health visitors in the Presidency of Bombay.

WHEREAS it is expedient to provide for the registration and better training of nurses, midwives and health visitors in the Presidency of Bombay; And whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

5 & 6, Geo. V, c. 61.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Nurses, Midwives and Health Visitors Registration Act, 1935.

(*2*) It shall extend to the whole of the Presidency of Bombay, excluding Sind.

(*3*) It shall come into force on such date as the [2][Provincial Government] may, by notification in the [3][*Official Gazette*], appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*a*) "affiliated institution" means an institution for the nursing of the sick, maternity or child welfare, which may be affiliated to the Council in accordance with the by-laws;

(*b*) "by-law" means a by-law made by the Council under section 23;

(*c*) "Council" means the Bombay Nurses, Midwives and Health Visitors Council, constituted under section 3;

(*d*) "institution" includes any association which maintains or controls a nursing establishment;

(*e*) "nurse" includes a male nurse;

(*f*) "prescribed" means prescribed by rules;

(*g*) "register" means a register maintained under section 11 and the expressions "registered" and "registration" shall be construed accordingly;

(*h*) "registered medical practitioner" means a person registered under the Bombay Medical Act, 1912;

Bom. VI of 1912.

(*i*) "rule" means a rule made by the [2][Provincial Government] under section 22.

Establishment, incorporation and constitution of the Council.

3. (*1*) The [2][Provincial Government] may, by notification in the [3][*Official Gazette*], establish a Council to be called "the Bombay Nurses, Midwives and Health Visitors Council" for the purpose of carrying out the provisions of this Act. Such Council shall be a body corporate, and have perpetual succession and a common seal and may, by the said name, sue and be sued.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1935, Pt. V, pp. 62—65 and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1935, Vol. XLI.

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

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(*2*) The Council shall consist of the following twenty-one members, namely :—

(*a*) as *ex-officio* members,

(*i*) the Surgeon-General with the Government of Bombay ;

(*ii*) the Director of Public Health for the Government of Bombay ;

(*iii*) the Lady Superintendent, Cama and Albless Hospitals, Bombay ;

(*iv*) the Lady Superintendent, St. George's Hospital Nursing Association, Bombay ;

(*v*) the Lady Superintendent, Sir David Sassoon and Jacob Sassoon Hospitals, Poona ;

(*vi*) the Sister Superior, Jamsetji Jeejeebhoy Hospital, Bombay ;

(*vii*) the Lady Superintendent, King Edward Memorial Hospital, Bombay ;

(*viii*) the Lady Superintendent, Nowrosji Wadia Maternity Hospital, Bombay, and the Lady Superintendent, Jerbai Wadia Children's Hospital, Bombay, in rotation ;

(*b*) as elected members,

(*i*) five persons to be elected by the affiliated institutions in the City of Bombay ;

(*ii*) one person to be elected by the affiliated institutions in the Northern Division ;

(*iii*) one person to be elected by the affiliated institutions in the Central Division ;

(*iv*) one person to be elected by the affiliated institutions in the Southern Division ;

(*v*) two registered medical practitioners, one of whom shall be a woman, to be elected by the Bombay Medical Council ;

(*c*) as nominated members—

one registered nurse, one registered midwife and one registered health visitor to be nominated by the [1][Provincial Government] :

Provided that, in the case of the first constitution of the Council under this Act, the [1][Provincial Government] shall appoint—

(*i*) the eight persons eligible for election under clause (*b*) (*i*), (*ii*), (*iii*) and (*iv*), to be members and such persons shall be deemed to have been elected members under each of the said clauses, respectively, and

(*ii*) one nurse, one midwife and one health visitor, having such qualifications as the [1][Provincial Government] may deem proper to be members and such nurse, midwife and health visitor shall be deemed to have been nominated under clause (*c*).

(*3*) The Surgeon-General with the Government of Bombay shall *ex-officio* be the President, and the Vice-President of the Council shall be elected from among the members of the Council and shall hold office for one year or until the election of his successor.

ppointment f members i default of ection.

4. If any of the institutions referred to in clause (*b*) of sub-section (*2*) of section (*3*) does not, by such date as may be prescribed, elect a person to be a member of the Council, the [1][Provincial Government] shall, by order in writing, appoint to the vacancy a person qualified for election thereto ; and the person so appointed shall be deemed to be a member of the Council as if he had been duly elected by the said institution.

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

Period of office of members.

5. The members of the Council, other than the *ex-officio* members specified in sub-clauses (*i*) to (*vii*) of clauses (*a*) of sub-section (*2*) of section 3, shall hold office for a period of five years or for such less period as the [1][Provincial Government] may prescribe in this behalf :

Provided that an out-going member shall continue in office until the election or nomination of his successor as the case may be.

Vacancies.

6. When a vacancy occurs in the office of a member of the Council through death, resignation, removal or disability of such member or otherwise, previous to the expiry of the period of his office, the vacancy shall be filled in the manner prescribed. Any person elected or nominated to fill a casual vacancy shall, notwithstanding anything contained in section 5, hold office only so long as the member in whose place he is elected or nominated would have held office if the vacancy had not occurred.

Vacancy not to affect proceedings.

7. If a vacancy in the office of a member of the Council has occurred, the continuing members thereof shall act as if no vacancy had occurred, and no act or proceeding of the Council shall be deemed invalid merely by reason of a vacancy in the Council or of a defect in the election or nomination of a person acting as a member of the Council.

Disqualifications.

8. No person shall be a member of the Council—

(*a*) who has been sentenced by a criminal court for an offence punishable with imprisonment for a term exceeding three months or to transportation, such sentence not having been subsequently reversed, quashed or remitted, unless he has by order, which the [1][Provincial Government] is hereby empowered to make in this behalf, been relieved from the disqualification arising on account of such sentence, or

(*b*) who is an undischarged insolvent, or

(*c*) who has been adjudicated by a competent court to be of unsound mind, or

(*d*) whose name has been removed from the register.

Disabilities from continuing as member.

9. (*1*) If any member, during the period for which he has been elected or nominated—

(*a*) absents himself without excuse, sufficient in the opinion of the Council, from three consecutive ordinary meetings of the Council; or

(*b*) is absent out of India for a period exceeding eight consecutive months; or

(*c*) becomes subject to any of the disqualifications specified in section 8; or

(*d*) having been elected by the Bombay Medical Council, ceases to be a registered medical practitioner,

the President of the Council shall forthwith report the fact to the [1][Provincial Government], who shall thereupon, by order in writing, declare his seat to be vacant.

(*2*) If any question arises whether a vacancy has occurred under sub-section (*1*), the orders of the [1][Provincial Government] shall be final for the decision of such question.

Leave of absence to members.

10. The Council may permit any member to absent himself from the meetings of the Council for any period not exceeding six months.

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

Maintenance of register.

11. The Council shall maintain a register of—

(*i*) nurses,

(*ii*) midwives, and

(*iii*) health visitors,

in such forms, containing such particulars, and divided into such parts as may be prescribed.

Persons entitled to registration.

12. Persons who have undergone such courses of training, have passed such examinations and who fulfil such other conditions as may be prescribed, shall, on payment of the prescribed fee and on making an application in the prescribed form, be entitled to registration :

Provided that nurses and midwives who are at the commencement of this Act enrolled on the registers maintained by the Bombay Presidency Nursing Association shall be entitled to have their names transferred, according to their qualifications, to the appropriate registers maintained under section 11.

Refusal of registration, and removal and re-entry of names.

13. (*1*) Subject to such conditions as may be prescribed, the Council may, after giving an opportunity to the person concerned to be heard in his defence and to appear, and after holding an enquiry in the prescribed manner, refuse to enter in the register the name of any person, or may order the removal of the name of such person from the register.

(*2*) The order passed under sub-section (*1*) shall be in writing, and shall be served on the person concerned in the prescribed manner.

(*3*) The Council may direct that the name of any person against whom an order under sub-section (*1*) has been passed shall be entered or re-entered in the register, as the case may be.

Appeal from order under section 13.

14. (*1*) Any person, aggrieved by any order of the Council under section 13, may, within three months from the date on which such order is served, appeal against such order to the [1][Provincial Government].

(*2*) The order of the [1][Provincial Governent] on any such appeal shall be final.

Institutions for training nurses, midwives or health visitors to be recognised by Council.

15. (*1*) The institutions which are approved and recognised by the Council after inspection by its representative shall be competent to train nurses, midwives or health visitors, and to send them for examination for the qualifying certificates of the Council.

(*2*) The Council may withdraw recognition from any such institution after its inspection by a representative of the Council. The order of such withdrawal shall be in writing and shall be served in the prescribed manner.

Appeal against refusal to recognise institutions under section 15.

16. Any person aggrieved by the refusal of the Council to approve and recognise any institution as competent to train nurses, midwives or health visitors may appeal, within three months from the date of such refusal, to the [1][Provincial Government] against such order of refusal. The decision of the [1][Provincial Government] on any such appeal shall be final.

Removal of names from register on notice of death.

17. Every Registrar of Births and Deaths, who receives notice of the death of any person whose name he knows to be or has reason to believe is entered in any register, shall forthwith transmit by post to the Council a certificate of registration of such death signed by him and stating the time and place of death ; and thereupon the name of such person shall be removed from the register.

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

Penalty for dishonest use of certificates.

18. Any person who—

(*a*) dishonestly makes use of any certificate of registration issued under the provisions of this Act to him or to any other person ;

(*b*) procures or attempts to procure registration under the provisions of this Act by making or producing, or causing to be made or produced any false or fraudulent declaration, certificate or representation, whether in writing or otherwise, or

(*c*) wilfully makes or causes to be made any false representation in any matter relating to the register or certificates issued under the provisions of this Act,

shall be punishable with fine not exceeding Rs. 250.

Penalty for unlawful assumption of title of registered nurse, midwife or health visitor.

19. Any person who, not being a registered nurse, midwife or health visitor, takes or uses the name or title of registered nurse, midwife or health visitor, or uses any name, title, description, prescribed uniform, object or sign-board, with the intention that it may be believed, or with the knowledge that it is likely to be believed that such person is a registered nurse, midwife or health visitor, shall be punishable with fine not exceeding Rs. 100.

Court competent to try offences under the Act.

20. No court other than a Presidency Magistrate or a Magistrate of the First Class shall take cognizance of or try any offence under this Act.

Funds of the Bombay Presidency Nursing Association to be vested in the Council.

21. The funds of the Bombay Presidency Nursing Association are hereby transferred to the Council, and shall hereafter vest in the Council for the purposes of this Act.

Power of Provincial Government to make rules.

22. (*1*) The [1][Provincial Government] may, after previous publication, make rules to carry out all or any of the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the fore-going power, they may make rules—

(*a*) prescribing the period of less than five years for which a member of the Council may hold office under section 5 ;

(*b*) prescribing the manner in which elections and nominations of members of the Council and the election of the Vice-President shall be made and casual vacancies shall be filled under section 6 ;

(*c*) prescribing the form in which a register shall be kept, the particulars to be entered in such register, and the parts in which such register shall be divided under section 11 ;

(*d*) prescribing the courses of training and examinations entitling a person to registration, the fee payable on application for registration, the form in which such applications shall be made, and the conditions subject to which names shall be entered in the register under section 12 ;

(*e*) prescribing the causes for which, the conditions under which and the manner in which the names of nurses, midwives and health visitors may be removed or re-entered in the register under section 13, and the manner in which the order of removal or refusal shall be served on such persons ;

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

(*f*) the manner in which an order of withdrawal of recognition of an institution shall be served under section 15;

(*g*) prescribing the fees payable in respect of an appeal under section 14 or 16; and

(*h*) any matter which is to be or may be prescribed.

(*3*) All rules made by the [1][Provincial Government] under this section shall be laid [2][before each of the Chambers of the Provincial Legislature] for one month previous to the session thereof, and shall be liable to be rescinded or modified by a resolution [3][in which each of the Chambers concur during] its next session; such rule shall, after notification in the [4][*Official Gazette*], be deemed to have been modified or rescinded accordingly;

Provided that when, in the opinion of the [1][Provincial Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, the [1][Provincial Government] may, by notification in the [4][*Official Gazette*], declare that the modification or rescission shall have no effect, and thereupon the rule shall remain in force as if it had not been modified or rescinded.

Power of the Council to make by-laws.

23. (*1*) The Council may make by-laws, not inconsistent with this Act or the rules—

(*a*) for regulating the compilation, maintenance and publication of the register and the conditions of admission to the register;

(*b*) for regulating the conduct of any examinations which may be prescribed as a condition of admission to the register and any matters ancillary to or connected with such examinations, including the courses of training which the candidates appearing for the examinations shall undergo;

(*c*) for the approval of any institution for the purpose of such training and the granting of diplomas to candidates passing the examinations;

(*d*) for regulating the conditions under which institutions for nursing the sick, maternity or child welfare may be affiliated to the Council;

(*e*) for appointing a Registrar and such other servants as may be necessary;

(*f*) for regulating the pay, pension, conduct and other conditions of service of persons appointed under clause (*e*);

(*g*) for establishing a provident fund for the benefit of the employees of the Council and of affiliated institutions and regulating its administration;

(*h*) for regulating and supervising the practice of their profession by registered nurses, midwives and health visitors;

(*i*) for regulating the publication of the names of registered nurses, midwives and health visitors and their residences;

(*j*) for regulating the conditions under which such nurses, midwives and health visitors registered in other provinces or other countries may be admitted to the register, on such other provinces and countries granting reciprocal registration to persons registered on the register of the Council;

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[1] The words "Provincial Government" were substituted for the words "Local Government", by the Adaptation of Indian Laws Order in Council.

[2] The words "before each of the Chambers of the Provincial Legislature" were substituted for the words "on the table of the Bombay Legislative Council", *ibid.*

[3] The words "in which each of the Chambers concur during" were substituted for the words "of the said Council tabled at", *ibid.*

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

(*k*) for regulating the summoning of meetings of the Council and its proceedings;

(*l*) for determining the manner in which all fees levied under this Act and all moneys received by the Council shall be accounted for, audited and applied for the purposes of this Act, and for regulating the expenditure of the Council generally;

(*m*) for prescribing the travelling and other expenses payable to the members of the Council or of committees; and

(*n*) generally for the provision of any matters in respect of which the Council considers provision should be made for the purposes of this Act.

(*2*) No by-law made by the Council shall come into force until it has been confirmed by the [1][Provincial Government], with or without modification or amendment.

(*3*) All by-laws made under this section shall be published in the [2][*Official Gazette*].

Protection of persons acting in good faith, under the Act, rules or by-laws.

24. No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act, rules or by-laws.

Control.

25. (*1*) If at any time it shall appear to the [1][Provincial Government] that the Council has failed to exercise, or has exceeded or abused any of the powers conferred upon it by or under this Act, or has failed to perform any of the duties imposed upon it by or under this Act, the [1][Provincial Government] may, if it considers such failure, excess or abuse to be of a serious character, notify the particulars thereof to the Council, and if the Council fails to remedy such default, excess or abuse, within such time as the [1][Provincial Government] may fix in this behalf, the [1][Provincial Government] may dissolve the Council and cause all or any of the powers and duties of the Council to be exercised and performed by such person and for such period as it may think fit and thereupon the funds and property of the Council shall vest in the [1][Provincial Government] for the purposes of this Act until a new Council shall have been constituted under section 3.

(*2*) When the [1][Provincial Government] has dissolved the Council under sub-section (*1*), it shall take steps as soon as may be convenient to constitute a new Council under section 3 and thereupon the property and funds referred to in sub-section (*1*) shall revest in the Council so constituted.

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" *ibid.*